

Senate File 526 - Introduced

SENATE FILE 526
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 306)

A BILL FOR

1 An Act regarding port authorities, including by allowing port
2 authorities to enter into certain loan agreements and lease
3 contracts.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 28J.1, subsections 1 and 3, Code 2023,
2 are amended to read as follows:

3 1. "*Authorized purposes*" means an activity that enhances,
4 fosters, aids, provides, or promotes transportation,
5 infrastructure, utility service, flood and erosion control,
6 economic development, housing, recreation, education,
7 governmental operations, culture, or research within the
8 jurisdiction of a port authority.

9 3. "*City*" means the same as defined in section 362.2, and
10 also includes a city enterprise as defined in section 384.24.

11 Sec. 2. Section 28J.1, subsection 6, paragraphs d, f, and g,
12 Code 2023, are amended to read as follows:

13 d. The cost of machinery, furnishings, equipment, financing
14 charges, interest prior to and during construction and for
15 no more than twelve months after completion of construction,
16 engineering, architectural services, technical services,
17 preliminary reports, property valuations, consequential
18 damages or costs, provisions for contingencies, supervision,
19 inspection, testing, and expenses of research and development
20 with respect to a facility.

21 f. The interest upon the revenue bonds, and pledge
22 orders, loan agreements, lease contracts, and certificates of
23 participation in or other participatory interests or evidences
24 of any obligation under a loan agreement or lease contract,
25 during the period or estimated period of construction and
26 for twelve months thereafter, or for twelve months after the
27 acquisition date, and upon reserve funds as the port authority
28 deems advisable in connection with a facility and the issuance
29 of port authority revenue bonds, and pledge orders, loan
30 agreements, lease contracts, and certificates of participation
31 in or other participatory interests or evidences of any
32 obligation under a loan agreement or lease contract.

33 g. The costs of issuance of port authority revenue bonds,
34 and pledge orders, loan agreements, lease contracts, and
35 certificates of participation in or other participatory

1 interests or evidences of any obligations under a loan
2 agreement or lease contract.

3 Sec. 3. Section 28J.1, subsections 7 and 8, Code 2023, are
4 amended to read as follows:

5 7. "*Facility*" or "*port authority facility*" means any
6 public works project, intermodal freight or transportation
7 facility, project for which tax-exempt financing is authorized
8 by the Internal Revenue Code, and real or personal property
9 or improvements owned, leased, constructed, or otherwise
10 controlled or financed by or for a port authority and that
11 is related to or in furtherance of one or more authorized
12 purposes. "*Facility*" does not include a recreational facility.

13 8. "*Governmental agency*" means a department, division,
14 or other unit of state government of this state or any other
15 state, ~~city, county,~~ any political subdivision, township, or
16 other governmental subdivision, or any city utility, any other
17 public corporation, special purpose district, authority, or
18 agency created under the laws of this state, any other state,
19 the United States, or any department or agency thereof, or any
20 agency, commission, or authority established pursuant to an
21 interstate compact or agreement or combination thereof.

22 Sec. 4. Section 28J.1, Code 2023, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 8A. "*Net revenues*" means revenues less
25 operating expenses.

26 Sec. 5. Section 28J.1, subsections 11 and 14, Code 2023, are
27 amended to read as follows:

28 11. "*Political subdivision*" means a ~~city, county,~~
29 ~~city-county consolidation, or multicounty consolidation, or~~
30 ~~combination thereof~~ municipality as defined in section 16.151.

31 14. "*Port authority revenue bonds*" or "*revenue bonds*" means
32 revenue bonds and revenue refunding bonds issued pursuant to
33 section 28J.21.

34 Sec. 6. Section 28J.1, Code 2023, is amended by adding the
35 following new subsection:

1 NEW SUBSECTION. 15A. "*Public works project*" means a
 2 project of a type that a political subdivision is authorized
 3 to undertake as otherwise provided by law, including
 4 but not limited to public roads and other transportation
 5 infrastructure, utility systems such as water treatment
 6 facilities and sewage treatment facilities, or a project as
 7 defined in section 384.80.

8 Sec. 7. Section 28J.1, subsection 16, Code 2023, is amended
 9 to read as follows:

10 16. "*Revenues*" means ~~rental~~ rents, fees, income, rates,
 11 tolls, receipts, and other charges or revenues received by a
 12 port authority or derived from the operations of a facility
 13 or for the use or services of a facility, a gift or grant
 14 received with respect to a facility, moneys received with
 15 respect to the lease, sublease, sale, including installment
 16 sale or conditional sale, or other disposition of a facility,
 17 moneys received in repayment of and for interest on any
 18 loans made by the port authority to a person or governmental
 19 agency, proceeds of port authority revenue bonds for payment
 20 of principal, premium, or interest on the bonds authorized
 21 by the port authority, proceeds or borrowings under port
 22 authority loan agreements for payment of principal, premium,
 23 or interest on the port authority obligations thereunder,
 24 proceeds or borrowings under lease contracts for the payment of
 25 lease payments thereunder, proceeds under any certificates of
 26 participation in or other participatory interests or evidences
 27 of any obligations under a loan agreement or lease contract,
 28 proceeds from any insurance, condemnation, or guarantee
 29 pertaining to the financing of the facility, and income and
 30 profit from the investment of the proceeds of port authority
 31 revenue bonds, proceeds, or borrowings under loan agreements,
 32 lease contracts, or proceeds of certificates of participation
 33 in or other participatory interests or evidences of any
 34 obligation under any loan agreement or lease contract or of any
 35 revenues.

1 Sec. 8. Section 28J.2, subsection 1, Code 2023, is amended
2 to read as follows:

3 1. Two or more political subdivisions may by resolution
4 create a port authority under this chapter ~~by resolution~~
5 anywhere in this state, regardless of proximity to a body
6 of water. Only the political subdivisions creating a port
7 authority have jurisdiction over the port authority. If a
8 proposal to create a port authority receives a favorable
9 majority of the members of the elected legislative body of each
10 of the political subdivisions, the port authority is created
11 at the time provided in the resolution. The jurisdiction of
12 a port authority includes the territory described in section
13 28J.8.

14 Sec. 9. Section 28J.2, Code 2023, is amended by adding the
15 following new subsection:

16 NEW SUBSECTION. 5. A port authority is an entity separate
17 from the political subdivisions comprising the port authority.
18 The powers granted to the port authority pursuant to this
19 chapter are in addition to other powers, and constitute
20 independent powers that may be exercised by the port authority
21 whether or not the political subdivisions comprising the
22 port authority have or may exercise any of those powers
23 individually.

24 Sec. 10. Section 28J.3, subsection 1, Code 2023, is amended
25 to read as follows:

26 1. The political subdivisions comprising a port authority
27 may appropriate and expend public funds and make contributions
28 to the port authority to finance or subsidize the operation and
29 authorized purposes of the port authority and pay the costs
30 and expenses incurred by the port authority in carrying out
31 any operations or authorized purposes of the port authority.
32 Political subdivisions comprising the port authority may
33 enter into agreements with each other or the port authority
34 providing for the contributions to the port authority to be
35 made by each of the political subdivisions and providing for

1 the obligations of each of the political subdivisions to pay,
2 finance, or subsidize the costs and expenses incurred by the
3 port authority. Political subdivisions comprising the port
4 authority may, by resolution, authorize and appropriate funds
5 for any contribution, payment, or financing required to be
6 made under such agreement by the use of any method available
7 to government agencies for providing funds or financing under
8 section 28J.16. A port authority shall control tax revenues
9 allocated to the facilities the port authority administers and
10 all revenues derived from the operation of the port authority,
11 the sale of its property, interest on investments, or from any
12 other source related to the port authority.

13 Sec. 11. Section 28J.5, subsections 1, 2, and 5, Code 2023,
14 are amended to read as follows:

15 1. A port authority created pursuant to section 28J.2 shall
16 be governed by a board of directors. Members of a board of
17 directors of a port authority created by two or more political
18 subdivisions shall be divided among the political subdivisions
19 comprising the port authority in such proportions as the
20 political subdivisions may agree and shall be appointed by the
21 respective political subdivision's elected legislative body.
22 Members of a board of directors of a port authority created by
23 one political subdivision shall be appointed by the political
24 subdivision's governing body.

25 2. The number of directors comprising the board of a port
26 authority created by two or more political subdivisions shall
27 be determined by agreement between the political subdivisions
28 comprising the port authority, ~~and which.~~ The number of
29 directors comprising the board of directors of a port authority
30 created by one political subdivision shall consist of the
31 number of directors the political subdivision considers
32 necessary. The number may be changed by resolution of each
33 of the political subdivisions comprising the port authority
34 and in accordance with any agreement between the political
35 subdivisions comprising the port authority.

1 5. The board may provide procedures for the removal of a
 2 director who fails to attend three consecutive regular meetings
 3 of the board. If a director is so removed, a successor shall
 4 be appointed for the remaining term of the removed director in
 5 the same manner provided for the original appointment. ~~The~~
 6 ~~appointing body~~ Any political subdivisions comprising the port
 7 authority may at any time remove a director appointed by it for
 8 ~~misfeasance, nonfeasance, or malfeasance in office and appoint~~
 9 a successor for the remaining term of the removed director in
 10 the same manner as provided for by the original appointment.

11 Sec. 12. Section 28J.8, subsection 1, Code 2023, is amended
 12 to read as follows:

13 1. The area of jurisdiction of a port authority shall
 14 include all of the territory of the port authority facility and
 15 of the political subdivisions comprising the port authority
 16 and, if the port authority owns or leases a railroad line or
 17 airport, the territory on which the railroad's line, terminals,
 18 and related facilities or the airport's runways, terminals,
 19 and related facilities are located, regardless of whether the
 20 territory is located in the political subdivisions comprising
 21 the port authority.

22 Sec. 13. Section 28J.9, subsections 4, 8, and 10, Code 2023,
 23 are amended to read as follows:

24 4. Acquire, construct, furnish, equip, maintain, repair,
 25 sell, exchange, lease, lease with an option to purchase,
 26 convey interests in real or personal property, and operate any
 27 property of the port authority within or outside the territory
 28 of the political subdivisions comprising the port authority in
 29 furtherance of any authorized purpose, including in connection
 30 with transportation, recreational, governmental operations, or
 31 cultural activities in furtherance of an authorized purpose.

32 8. Issue port authority revenue bonds beyond the limit
 33 of bonded indebtedness provided by law, payable solely from
 34 revenues as provided in section 28J.21, and enter into loan
 35 agreements and lease contracts as provided in section 28J.21A,

1 for the purpose of providing funds to pay the costs of any
2 facility or facilities of the port authority or parts thereof.

3 10. Enjoy and possess the same legislative and executive
4 rights, privileges, and powers granted cities under ~~chapter~~
5 chapters 28F, 364, and 384, and counties under chapter 331,
6 including the exercise of police power but excluding the power
7 to levy taxes.

8 Sec. 14. Section 28J.11, subsection 2, Code 2023, is amended
9 to read as follows:

10 2. Impair the powers of a political subdivision to develop
11 or improve a port ~~and terminal~~ authority facility except as
12 restricted by section 28J.15.

13 Sec. 15. Section 28J.13, Code 2023, is amended to read as
14 follows:

15 **28J.13 Annual budget — use of rents and charges.**

16 The board shall annually prepare a budget for the port
17 authority. Revenues received by the port authority shall be
18 used for the general expenses of the port authority and to
19 pay interest, amortization, and retirement charges on, and
20 principal of, money borrowed and to make payments under lease
21 contracts. Except as provided in section 28J.26, if there
22 remains, at the end of any fiscal year, a surplus of such funds
23 after providing for the above uses, the board shall pay such
24 surplus into the general funds of the political subdivisions
25 comprising the port authority as agreed to by the subdivisions.

26 Sec. 16. Section 28J.15, Code 2023, is amended to read as
27 follows:

28 **28J.15 Limitation on certain powers of political**
29 **subdivisions.**

30 A political subdivision creating or participating in the
31 creation of a port authority in accordance with section 28J.2
32 shall not, during the time the port authority is in existence,
33 exercise the rights and powers provided in chapters 28A, 28K,
34 and 384 relating to the political subdivision's authority over
35 a port, wharf, dock, harbor, or other facility substantially

1 similar to that political subdivision's authority under a port
2 authority granted under this chapter, except as provided in
3 section 28J.2.

4 Sec. 17. Section 28J.16, subsection 1, paragraphs a and c,
5 Code 2023, are amended to read as follows:

6 a. A port authority may charge, alter, and collect ~~rental~~
7 rents, fees, or other charges or revenues for the use or
8 services of any port authority facility and contract for the
9 use or services of a facility, and fix the terms, conditions,
10 ~~rental~~ rents, fees, or other charges for the use or services.

11 c. The ~~rental~~ rents, fees, or other charges, and other
12 revenues of a port authority shall not be subject to
13 supervision or regulation by any other authority, commission,
14 board, bureau, or governmental agency of the state and the
15 contract may provide for acquisition of all or any part of
16 the port authority facility for such consideration payable
17 over the period of the contract or otherwise as the port
18 authority determines to be appropriate, but subject to the
19 provisions of any resolution authorizing the issuance of port
20 authority revenue bonds, loan agreements, lease contracts,
21 or certificates of participation in or other participatory
22 interests or evidences of any obligations under a loan
23 agreement or lease contract, or of any trust agreement securing
24 the bonds, loan agreements, lease contracts, or certificates of
25 participation in or other participatory interests or evidences
26 of any obligation under a loan agreement or lease contract.

27 Sec. 18. Section 28J.16, subsection 2, paragraph a, Code
28 2023, is amended to read as follows:

29 a. A governmental agency may cooperate with the port
30 authority in the acquisition, operation, or construction of a
31 port authority facility and shall enter into such agreements
32 with the port authority as may be appropriate, which shall
33 provide for contributions by the parties in a proportion as may
34 be agreed upon and other terms as may be mutually satisfactory
35 to the parties including the authorization of the construction

1 of the facility by one of the parties acting as agent for all
 2 of the parties and the ownership, operation, and control of
 3 the facility by the port authority to the extent necessary or
 4 appropriate.

5 Sec. 19. Section 28J.17, subsection 1, paragraph a, Code
 6 2023, is amended to read as follows:

7 a. A port authority may enter into a contract or other
 8 arrangement with a person, railroad, utility company,
 9 corporation, governmental agency including sewerage, drainage,
 10 conservation, conservancy, or other improvement districts in
 11 this or other states, or the governments or agencies of foreign
 12 countries as may be necessary or convenient for the exercise
 13 of the powers granted by [this chapter](#). The port authority
 14 may purchase, lease, or acquire land or other property in
 15 any county of this state and in adjoining states for the
 16 accomplishment of authorized purposes of the port authority, or
 17 for the improvement of ~~the harbor and~~ port authority facilities
 18 over which the port authority may have jurisdiction including
 19 development of port authority facilities in adjoining states.
 20 The authority granted in [this section](#) to enter into contracts
 21 or other arrangements with the federal government includes the
 22 power to enter into any contracts, arrangements, or agreements
 23 that may be necessary to hold and save harmless the United
 24 States from damages due to the construction and maintenance by
 25 the United States of work the United States undertakes.

26 Sec. 20. Section 28J.19, Code 2023, is amended to read as
 27 follows:

28 **28J.19 Property tax exemption.**

29 A port authority shall be exempt from and shall not be
 30 required to pay taxes on real property that is purchased by a
 31 port authority or real property belonging to a port authority
 32 that is used exclusively for an authorized purpose, as provided
 33 in [section 427.1, subsection 34](#).

34 Sec. 21. Section 28J.21, subsection 2, Code 2023, is amended
 35 by adding the following new paragraph:

1 NEW PARAGRAPH. *c.* (1) Registered voters may submit a
 2 petition to the board to stop further action on the issuance
 3 of revenue bonds within sixty days after the board receives a
 4 written objection from a resident or property owner within the
 5 jurisdiction of the port authority. A valid petition must have
 6 signatures from at least ten percent of the registered voters
 7 based on the votes cast for the office of president of the
 8 United States or governor at the preceding general election,
 9 for each of the political subdivisions comprising the port
 10 authority.

11 (2) If a valid petition is submitted to the board, the
 12 board shall either by resolution declare the proposal to issue
 13 the bonds abandoned, or shall direct the county commissioner
 14 of elections to call a special election upon the question of
 15 issuing the bonds.

16 (3) Notice of an election must be given by publication as
 17 required by section 49.53 in a newspaper of general circulation
 18 in the political subdivisions comprising the port authority.
 19 At the election, the ballot used for the submission of the
 20 proposition must be in substantially the form for submitting
 21 special questions at general elections.

22 Sec. 22. NEW SECTION. **28J.21A Loan agreements — lease**
 23 **contracts — trust agreements.**

24 1. *Definitions.* As used in this section, unless the context
 25 otherwise requires:

26 *a. "Lease contract"* includes any certificates of
 27 participation or other participatory interests in the lease
 28 contract or obligations arising out of the lease contract.

29 *b. "Loan agreement"* includes any notes, certificates, or any
 30 other participatory interests issued to evidence the parties'
 31 obligations arising out of the loan agreement.

32 2. *Loan agreements.* A port authority may enter into loan
 33 agreements to borrow money to pay the costs of any facility, or
 34 parts thereof, or to refund other obligations which are payable
 35 from the net revenues of the port authority at lower, the same,

1 or higher rates of interest in accordance with the all of the
2 following terms and procedures:

3 *a.* A loan agreement entered into by a port authority may
4 contain provisions similar to those in loan agreements between
5 private parties, including but not limited to any of the
6 following:

7 (1) The loan agreement may provide for the issuance
8 of notes, certificates of participation, or any other
9 participatory interests to evidence the parties' obligations.

10 (2) The loan agreement may provide for maturity in one or
11 more installments.

12 (3) The loan agreement may be in registered form and carry
13 registration and conversion privileges.

14 (4) The loan agreement may be payable as to principal and
15 interest at times and places as specified.

16 (5) The loan agreement may be subject to terms of redemption
17 prior to maturity with or without a premium.

18 (6) The loan agreement may be in one or more denominations.

19 *b.* A provision of a loan agreement which stipulates that
20 a portion of the payments be applied as interest is subject
21 to chapter 74A and such interest may be at a variable rate or
22 rates changing from time to time in accordance with a base or
23 formula. Other laws relating to interest rates do not apply
24 and the provisions of chapter 75 are not applicable.

25 *c.* The board may authorize a loan agreement to be
26 payable solely from the net revenues of a port authority by
27 substantially following the authorization procedures of section
28 28J.21 for the issuance of revenue bonds. The resolution
29 authorizing the loan agreement may also prescribe additional
30 provisions, terms, conditions, and covenants that the port
31 authority deems advisable, consistent with this chapter,
32 including provisions for creating and maintaining reserve
33 funds and for the authorization of additional loan agreements
34 ranking on a parity with such loan agreements and additional
35 loan agreements junior and subordinate to such loan agreement,

1 and that such loan agreement shall rank on a parity with or
 2 be junior and subordinate to any loan agreement which may be
 3 then outstanding. A port authority loan agreement shall be
 4 a contract between the port authority and the lender and the
 5 resolution shall be made part of the contract.

6 *d.* A loan agreement to which a port authority is a party
 7 is an obligation of the political subdivisions comprising the
 8 port authority for the purposes of chapters 502 and 636, and
 9 is a lawful investment for any bank, trust company, savings
 10 association, deposit guaranty association, investment company,
 11 insurance company, insurance association, executor, guardian or
 12 trustee, and any fiduciary responsible for the investment of
 13 funds or having charge of the loan retirement funds or sinking
 14 funds of any port authority, governmental agency, or taxing
 15 district of this state, any pension and annuity retirement
 16 system, the Iowa public employees' retirement system under
 17 chapter 97B, the police officers and fire fighters retirement
 18 systems under chapters 410 and 411, or a revolving fund of
 19 a governmental agency of this state, and are acceptable as
 20 security for the deposit of public funds under chapter 12C.

21 3. *Lease contracts.* A port authority may enter into lease
 22 contracts for real or personal property comprising a port
 23 authority facility, or parts thereof, in accordance with all of
 24 the following terms and procedures:

25 *a.* A port authority shall lease property only for a term
 26 which does not exceed the economic life of the property, as
 27 determined by the board.

28 *b.* A lease contract entered into by a port authority may
 29 contain provisions similar to those found in lease contracts
 30 between private parties, including but not limited to any of
 31 the following:

32 (1) The lease contract may provide for the issuance of
 33 certificates of participation or other participatory interests
 34 in the lease contracts or any obligations thereunder.

35 (2) The lease contract may provide for the lessee to pay any

1 of the costs of operation or ownership of the leased property
2 and for the right to purchase the leased property.

3 *c.* A provision of a lease contract which stipulates that a
4 portion of the rent or lease payments be applied as interest
5 is subject to the provisions of chapter 74A and such interest
6 may be at a variable rate or rates changing from time to time
7 in accordance with a base or formula. Other laws relating to
8 interest rates shall not apply and the provisions of chapter
9 75 are not applicable.

10 *d.* The board may authorize a lease contract payable solely
11 from the net revenues of a port authority by substantially
12 following the authorization procedures set forth in section
13 28J.21 for the issuance of port authority revenue bonds. The
14 resolution authorizing the lease contract may also prescribe
15 additional provisions, terms, conditions, and covenants which
16 the port authority deems advisable, consistent with this
17 chapter, including provisions for creating and maintaining
18 reserve funds and the authorization of additional lease
19 contracts ranking on a parity with such lease contracts and
20 additional lease contracts junior and subordinate to such lease
21 contracts, and that such lease contracts shall rank on a parity
22 with or be junior and subordinate to any lease contract which
23 may be then outstanding. A port authority lease contract shall
24 be a contract between the port authority and the lessor and the
25 resolution shall be part of the contract.

26 *e.* A lease contract to which a port authority is a party
27 is an obligation of the political subdivisions comprising the
28 port authority for the purposes of chapters 502 and 636, and
29 is a lawful investment for any bank, trust company, savings
30 association, deposit guaranty association, investment company,
31 insurance company, insurance association, executor, guardian or
32 trustee, and any fiduciary responsible for the investment of
33 funds or having charge of the lease retirement funds or sinking
34 funds of any port authority, governmental agency or taxing
35 district of this state, any pension and annuity retirement

1 system, the Iowa public employees' retirement system under
2 chapter 97B, the police officers and fire fighters retirement
3 systems under chapters 410 and 411, or a revolving fund of
4 a governmental agency of this state, and are acceptable as
5 security for the deposit of public funds under chapter 12C.

6 *f.* A contract for construction by a private party of
7 property to be leased by a port authority is not a contract for
8 a public improvement and shall not be subject to the provisions
9 of chapter 26 and section 28J.3, subsection 3. This paragraph
10 applies to all contracts that are subject to this subsection,
11 notwithstanding section 28J.9, subsection 18, or any other
12 provision of law that might otherwise apply, including a
13 requirement of notice, competitive bidding or selection, or
14 for the provision of security. However, if a contract is
15 funded in advance by means of the lessor depositing moneys to
16 be administered by a port authority with the port authority's
17 obligation to make rent or lease payments commencing with
18 its receipt of moneys, a contract for construction of the
19 property in question awarded by the port authority is a public
20 improvement and is subject to the provisions of chapter 26.

21 4. *Trust agreements.*

22 *a.* In the discretion of the port authority, a loan agreement
23 or a lease contract authorized under this section and the port
24 authority's obligations thereunder may be secured by a trust
25 agreement between the port authority and a corporate trustee
26 that may be any trust company or bank having the powers of a
27 trust company within this or any other state. Subject to the
28 other provisions of this paragraph, the corporate trustee may
29 also be the lender under a loan agreement or the lessor under a
30 lease contract authorized under this section.

31 *b.* The trust agreement may provide for the issuance of
32 notes to evidence the port authority's obligations under a loan
33 agreement to which the port authority is a party. The trust
34 agreement may also provide for the issuance of certificates
35 of participation or other participatory interests in a lease

1 contract to which a port authority is a party. The trust
2 agreement, or any resolution authorizing the loan agreement or
3 the lease contract, may pledge or assign revenues of the port
4 authority to be received as payment of obligations under the
5 loan agreement or the lease contract and may contain provisions
6 for protecting and enforcing the rights and remedies of the
7 lender, the lessor, or the holders of notes evidencing the
8 port authority's obligations under the loan agreement. These
9 provisions may include covenants setting forth the duties of
10 the port authority in relation to the acquisition of property,
11 the construction, improvement, maintenance, repair, operation,
12 and insurance of the port authority facility in connection
13 with which the loan agreement or the lease contract is
14 authorized, the rentals or other charges to be imposed for the
15 use or services of any port authority facility, the custody,
16 safeguarding, and application of all moneys, and provisions for
17 the employment of consulting engineers in connection with the
18 construction or operation of any port authority facility.

19 c. A bank or trust company incorporated under the laws
20 of this state that acts as the depository of the proceeds or
21 borrowings provided under the loan agreement or lease contract
22 or of revenues, shall furnish any indemnifying bonds and may
23 pledge any securities that are required by the port authority.
24 The trust agreement may set forth the rights and remedies of
25 the lender, the lessor, or the holders of notes evidencing the
26 port authority's obligations under the loan agreement and may
27 restrict the individual right of action by the lender, the
28 lessor, or the holders of notes evidencing the port authority's
29 obligations under the loan agreement as is customary in trust
30 agreements or trust indentures securing similar loan agreements
31 or lease contracts. The trust agreement may contain any other
32 provisions that the port authority determines reasonable and
33 proper for the security of the lender, the lessor, or the
34 holders of notes evidencing the port authority's obligations
35 under the loan agreement. All expenses incurred in carrying

1 out the provisions of the trust agreement may be treated as
2 a part of the cost of the operation of the port authority
3 facility.

4 5. *Exclusions.* Port authority loan agreements and lease
5 contracts authorized under this chapter shall not constitute
6 a debt, indebtedness, or a pledge of the faith and credit of
7 the port authority or the state or any political subdivision
8 of the state, within the meaning of any state constitutional
9 provision or statutory limitation, nor constitute or give rise
10 to a pecuniary liability of the port authority, any political
11 subdivisions comprising the port authority, the state, or
12 any political subdivision of the state, or a charge against
13 the general credit or taxing power of the port authority.
14 Any political subdivisions comprising the port authority,
15 the state, or any political subdivision of the state, and
16 the holders or owners of the obligations owed under a loan
17 agreement or lease contract shall not have taxes levied by the
18 state or by a taxing authority of a governmental agency of the
19 state for the payment of the principal of or interest owed on
20 such obligations. However, a loan agreement or lease contract
21 and the obligation owed thereunder are payable solely from the
22 revenues and funds pledged for their payment as authorized
23 by this chapter. All loan agreements and lease contracts
24 authorized under this chapter and the evidence of obligations
25 owed under such loan agreements or lease contracts such shall
26 contain a statement to the effect that the loan agreement or
27 lease contract authorized under this chapter and the evidence
28 of obligations owed under the loan agreement or lease contract,
29 as to both principal and interest, are not debts of the port
30 authority or the state or any political subdivision of the
31 state, but are payable solely from revenues and funds pledged
32 for their payment.

33 6. *Judicial proceedings.*

34 a. The sole remedy for a breach or default of a term of
35 any port authority loan agreement or lease contract authorized

1 under this chapter is a proceeding in law or in equity by
 2 suit, action, or mandamus to enforce and compel performance of
 3 the duties required by this chapter and of the terms of the
 4 resolution authorizing the loan agreement or lease contract,
 5 or to obtain the appointment of a receiver to take possession
 6 of and operate the port authority and to perform the duties
 7 required by this chapter and the terms of the resolution
 8 authorizing the loan agreement or lease contract.

9 *b.* An action shall not be brought after fifteen days from
 10 the time the loan agreement or lease contract is authorized by
 11 the port authority with regards to any of the following:

12 (1) The legality of the port authority loan agreement or
 13 lease contract.

14 (2) The power of a port authority to authorize the port
 15 authority loan agreement or lease contract.

16 (3) The effectiveness of any proceedings relating to the
 17 authorization of the port authority loan agreement or lease
 18 contract.

19 Sec. 23. Section 28J.25, Code 2023, is amended to read as
 20 follows:

21 **28J.25 Funds and property held in trust — use and deposit of**
 22 **funds.**

23 All revenues, funds, properties, and assets acquired by the
 24 port authority under [this chapter](#), whether as proceeds from the
 25 sale of port authority revenue bonds, pledge orders, borrowings
 26 under a loan agreement, entering into a lease contract,
 27 proceeds from the issuance of certificates of participation
 28 or any other participatory interests in such loan agreement
 29 or lease contract or as revenues, shall be held in trust for
 30 the purposes of carrying out the port authority's powers and
 31 duties, shall be used and reused as provided in [this chapter](#),
 32 and shall at no time be part of other public funds. Such funds,
 33 except as otherwise provided in a resolution authorizing port
 34 authority revenue bonds or pledge orders, the loan agreement or
 35 lease contract, or in a trust agreement securing the same, or

1 except when invested pursuant to [section 28J.26](#), shall be kept
 2 in depositories selected by the port authority in the manner
 3 provided in [chapter 12C](#), and the deposits shall be secured
 4 as provided in that chapter. The resolution authorizing the
 5 issuance of revenue bonds or pledge orders, the loan agreement
 6 or lease contract, or the trust agreement securing such bonds
 7 or pledge orders, shall provide that any officer to whom, or
 8 any bank or trust company to which, such moneys are paid shall
 9 act as trustee of such moneys and hold and apply them for the
 10 purposes hereof, subject to such conditions as [this chapter](#) and
 11 such resolution or trust agreement provide.

12 Sec. 24. Section 28J.26, subsection 1, Code 2023, is amended
 13 to read as follows:

14 1. If a port authority has surplus funds after making all
 15 deposits into all funds required by the terms, covenants,
 16 conditions, and provisions of outstanding revenue bonds, pledge
 17 orders, loan agreements, or lease contracts and refunding bonds
 18 which are payable from the revenues of the port authority
 19 and after complying with all of the requirements, terms,
 20 covenants, conditions, and provisions of the proceedings and
 21 resolutions pursuant to which revenue bonds, pledge orders,
 22 and refunding bonds are issued or the loan agreement or lease
 23 contract is authorized, the board may transfer the surplus
 24 funds to any other fund of the port authority in accordance
 25 with [this chapter](#) and [chapter 12C](#), provided that a transfer
 26 shall not be made if it conflicts with any of the requirements,
 27 terms, covenants, conditions, or provisions of a resolution
 28 authorizing the issuance of revenue bonds, pledge orders,
 29 or other obligations ~~which are~~ or loan agreements or lease
 30 contracts payable from the revenues of the port authority which
 31 are then outstanding.

32 Sec. 25. Section 427.1, subsection 34, Code 2023, is amended
 33 to read as follows:

34 34. *Port authority property.* The property of a port
 35 authority created pursuant to [section 28J.2](#), when devoted to

1 public use and not held for pecuniary profit, or property
2 purchased by a port authority.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill relates to the powers and duties of port
7 authorities.

8 Under Code chapter 28J, the bill modifies the defined
9 terms "authorized purposes", "city", "cost", "facility" or
10 "port authority facility", "governmental agency", "political
11 subdivision", "port authority revenue bonds" or "revenue
12 bonds", and "revenues". The bill creates and defines the terms
13 "net revenues" and "public works project".

14 The bill provides for the creation of a port authority
15 anywhere in this state regardless of proximity to a body of
16 water. The bill also provides that a port authority is an
17 entity separate from the political subdivisions comprising
18 the port authority. The powers granted to the port authority
19 may be exercised whether or not the political subdivisions
20 comprising the port authority may exercise those same powers.
21 Only the political subdivisions creating a port authority have
22 jurisdiction over the port authority. Under Code section
23 28J.4, political subdivisions that later join a port authority
24 are considered to have participated in the creation of the port
25 authority.

26 The bill provides that the political subdivisions
27 comprising the port authority may make contributions to the
28 port authority, in addition to appropriating or expending
29 public funds as set forth in current law, to finance or
30 subsidize the operation and authorized purposes of the port
31 authority, and pay the costs and expenses incurred by the
32 port authority in carrying out any operations or authorized
33 purposes of the port authority. Under the bill, political
34 subdivisions comprising the port authority are allowed to
35 enter into agreements with each other or the port authority

1 providing for the contributions to the port authority to be
2 made by each of the political subdivisions and providing for
3 the obligations of each of the political subdivisions to pay,
4 finance, or subsidize the costs and expenses incurred by the
5 port authority.

6 The bill makes conforming changes to Code section 28J.5
7 relating to the membership of the board of directors of a
8 port authority (board) created by one political subdivision.
9 The bill further provides that any political subdivisions
10 comprising the port authority may appoint a successor for the
11 remaining term of a removed director.

12 The bill modifies the powers of a port authority as it
13 relates to its property regardless of whatever the property is
14 within or outside the territory of the political subdivisions
15 comprising the port authority if in furtherance of any
16 authorized purpose. The bill further allows a port authority
17 to enter into loan agreements and lease contracts, as provided
18 for in the bill, and to exercise the same powers granted to
19 cities under Code chapters 28F (joint financing of public works
20 and facilities) and 384 (city finance).

21 The bill allows a port authority to use its revenues for
22 principal on borrowed money and payments under lease contracts.
23 The bill further provides that a contract regarding rentals or
24 charges for use of services of a port authority may provide
25 for acquisition of the port authority facility subject to the
26 provisions of any resolution authorizing the issuance of port
27 authority revenue bonds, loan agreements, lease contracts, or
28 any trust agreement securing such bonds, loan agreements, or
29 lease contracts.

30 The bill provides a petition process to stop any further
31 action on the issuance of revenue bonds by the board. At
32 least 10 percent of the registered voters for each political
33 subdivision comprising the port authority must sign and submit
34 a petition to the board within 60 days of the board receiving
35 written objection from a resident or property owner within the

1 jurisdiction of the port authority. If a valid petition is
2 submitted, the board must either declare the proposal to issue
3 the bonds abandoned or call a special election.

4 The bill allows a governmental agency to cooperate with the
5 port authority in the operation of a port authority facility.

6 The bill provides that real property that is purchased by a
7 port authority is not subject to certain property taxes.

8 Under the bill, a port authority may enter into certain
9 loan agreements and lease contracts. A port authority may
10 enter into loan agreements to borrow money to pay the costs of
11 any facility or to refund other obligations which are payable
12 from the net revenues of the port authority at any rate of
13 interest. A port authority may enter into lease contracts
14 for real or personal property comprising a port authority
15 facility, but can only lease property for a term that does not
16 exceed the economic life of the property. The bill details
17 certain provisions similar to those in loan agreements and
18 lease contracts between private parties that a loan agreement
19 or lease contract entered into by a port authority may contain.
20 The bill provides certain conditions for when a loan agreement
21 or lease contract stipulates that a portion of the payments be
22 applied as interest. The board can authorize a loan agreement
23 or lease contract, along with prescribing additional terms and
24 provisions, by resolution and such resolution becomes part
25 of the loan agreement or lease contract. A loan agreement
26 or lease contract in which a port authority is a party is
27 an obligation of political subdivisions comprising the port
28 authority. A contract for construction by a private party of
29 property to be leased by a port authority is not a contract for
30 public improvement, except under certain conditions.

31 The bill authorizes loan agreements or lease contracts to be
32 secured by a trust agreement between the port authority and a
33 corporate trustee, and further provides how the trust agreement
34 functions.

35 The bill provides that loan agreements and lease contracts

1 authorized by the bill do not constitute a debt, indebtedness,
2 or a pledge of faith and credit of the port authority or of
3 the state or any political subdivisions of the state nor do
4 any such agreements give rise to pecuniary liability as to
5 these entities or act as a charge against the general credit
6 or taxing power of the port authority. The bill provides that
7 any political subdivisions comprising the port authority, the
8 state, or any political subdivisions of the state, and the
9 holders or owners of obligations owed under a loan agreement
10 or lease contract cannot have taxes levied by the state or
11 by a taxing authority of a governmental agency of the state
12 for the payment of the principal of or interest owed on such
13 obligations.

14 Under the bill, the sole remedy for a breach or default of
15 any port authority loan agreement or lease contract authorized
16 by the bill is a proceeding in law or in equity to enforce and
17 compel performance of required duties and the terms of the
18 resolution authorizing the loan agreement or lease contract,
19 or to obtain the appointment of a receiver to take possession
20 and operate the port authority to perform the required duties
21 and terms. An action cannot be brought after 15 days from the
22 time the loan agreement or lease contract is authorized by the
23 port authority if the action regards the legality of the loan
24 agreement or lease contract, the power of the port authority
25 to authorize the loan agreement or lease contract, or the
26 effectiveness of any proceeding relating to the authorization
27 of the loan agreement or lease contract.

28 The bill makes conforming changes to Code sections 28J.8,
29 28J.11, 28J.15, 28J.17, 28J.25, and 28J.26.